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10/669,687	09/25/2003	Kenji Samoto	117213	4431
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OLIFF & BERRIDGE, PLC			LEE, JINHEE J	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KENJI SAMOTO

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Appeal 2009-011819  
Application 10/669,687  
Technology Center 2100

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Decided: April 8, 2010

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*Before* LEE E. BARRETT, HOWARD B. BLANKENSHIP, and  
DEBRA K. STEPHENS, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) (2002) from a final rejection of claims 1-6, 19 and 20.<sup>1</sup> Claims 9-15 have been withdrawn, claims 16-18 have been cancelled. (App. Br. 9). We have jurisdiction under 35 U.S.C. § 6(b) (2008) and an oral hearing was held March 24, 2010.

We REVERSE.

### *Introduction*

According to Appellant, the invention is a system and method for “a flexible cable harness with a plurality of flexible cables that transmit electrical signals from a main body to a carriage in an image forming apparatus, such as a printer” (Spec. [0001]).

## STATEMENT OF THE CASE

### *Exemplary Claim*

Claim 1 is an exemplary claim and is reproduced below:

1. A flexible cable harness, comprising:
  - a plurality of flexible cables, each having a first end connected to a first object and a second end connected to a second object, at least one of the plurality of flexible cables contributing to an electrical connection between the first object and the second object,
  - each of the plurality of flexible cables comprising:
    - a curved portion that curves between the first end and the second end;
    - a first positioning system added near the first end in the curved portion; and

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<sup>1</sup> Appellant states the rejection of claims 7 and 8 is not being presented for review although the Examiner had rejected these claims in the Final Rejection (App. Br. 9). Therefore, the Board does not have jurisdiction as to the non-appealed claims 7 and 8. We suggest the Examiner cancel claims 7 and 8 upon return of this case to the Examiner.

a second positioning system added near the second end in the curved portion, wherein a distance from the first positioning system to the second positioning system is different in each of the plurality of flexible cables such that more inward flexible cables located at the curved portion are shorter in distance between the first positioning system and the second positioning system, the first positioning system of each of the plurality of flexible cables is fixed to a first positioning part provided on or near the first object, the second positioning system of each of the plurality of flexible cables is fixed to a second positioning part provided on or near the second object, and each of the plurality of flexible cables are spaced in the curved portion.

*Prior Art*

Serizawa	6,257,898 B1	Jul. 10, 2001
Urushibata	JP 06021949	Mar. 22, 1994

*Rejections*

Claims 1-6, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Urushibata.

ISSUE

*35 U.S.C. § 103(a): claims 1-6, 19 and 20*

Appellant asserts their invention is not obvious over Urushibata because the reference does not disclose all the claim limitations (App. Br. 12). Specifically, Appellant contends Urushibata fails to teach adding structure to each of their flexible cables as recited in the claims (*id.* at 12-14). Appellant further argues that Urushibata's disclosure of cables 13-17 does not teach the first and second positioning systems of claims 1 and 19 on appeal because Urushibata does not disclose flexible cables *and* an additional first and second positioning systems (*id.* at 14-16). Finally,

Appellant argues that the Examiner does not provide adequate support as to why Urushibata “discloses or suggest the first and second positioning system of claims 1 and 19” (*id.* at 16). Specifically, Appellant argues that the Examiner does not indicate where Urushibata discloses “any structure or positioning system that is ‘on’ the cables” (*id.*).

The Examiner finds that Appellant admits that Urushibata discloses flexible cables and that the Appellant’s argument that first and second positioning systems are added to the cables is “not germane to the issue of patentability of the device itself” (Ans. 3). The Examiner further finds that the first and second positioning systems are unnumbered on cables 29 and 21 and 23, respectively and that these teach the limitations set forth in the claimed invention (*id.* at 2-3).

*Issue:* Has Appellant shown the Examiner erred in finding Urushibata discloses first and second positioning systems that are added to the structure of flexible cables?

#### FINDINGS OF FACT (FF)

We find as follows:

##### *Appellant’s Invention*

(1) Appellant discloses a first positioning system added near the first end and a second positioning system added near the second end as shown in Fig. 2A of Appellant’s Specification.

Figure 2A of Appellants’ Specification is reproduced below.

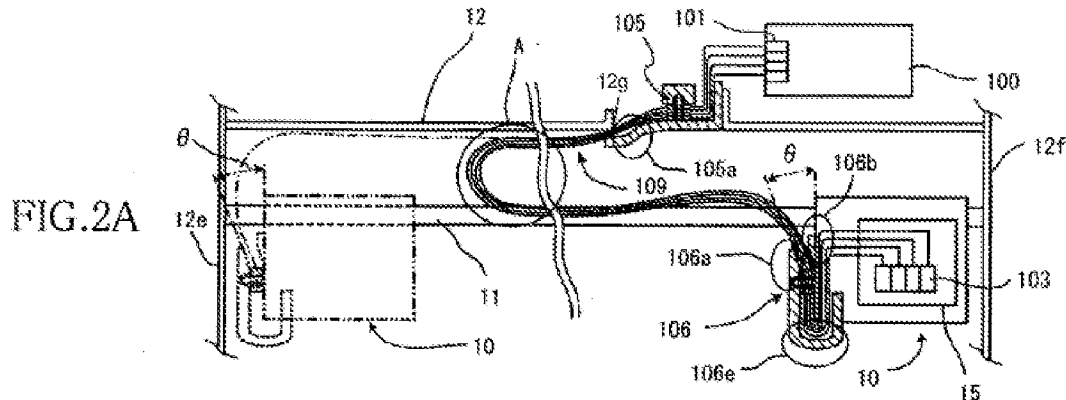


Figure 2A discloses a first positioning system added near the first end and a second positioning system added near the second end.

*Urushibata Reference*

(2) Urushibata relates to a head cable for a printing device that connects a print head mounted with a printing device carriage to a main print circuit board (pg. 4, [0001]).

(3) Figure 1 of Urushibata teaches a structure of a head cable for a printing device. The head cable 13 is comprised of a outer flat cable 15 and inner flat cable 17 (pg. 5, [0003]). The head cable 13 and a print head 5 are connected using connectors 21 and 23 which include insertion ports 21a and 23a formed thereon (*id.*). The end portions of the outer flat cable and inner flat cable 17 are inserted therein (*id.*).

Figure 1 of Urushibata is shown below.

Figure 1

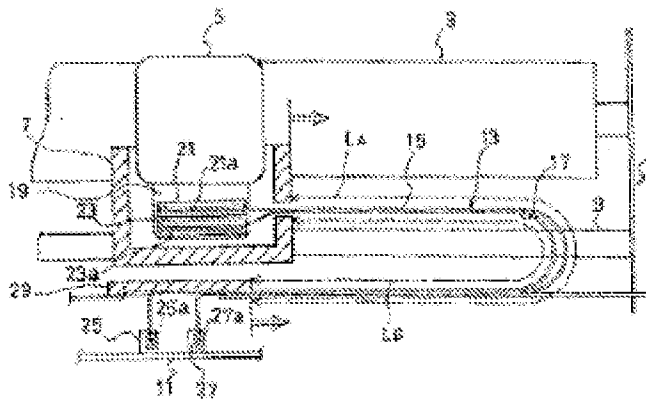


Figure 1 of Urushibata shows a structure of a head cable for a printing device

### PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

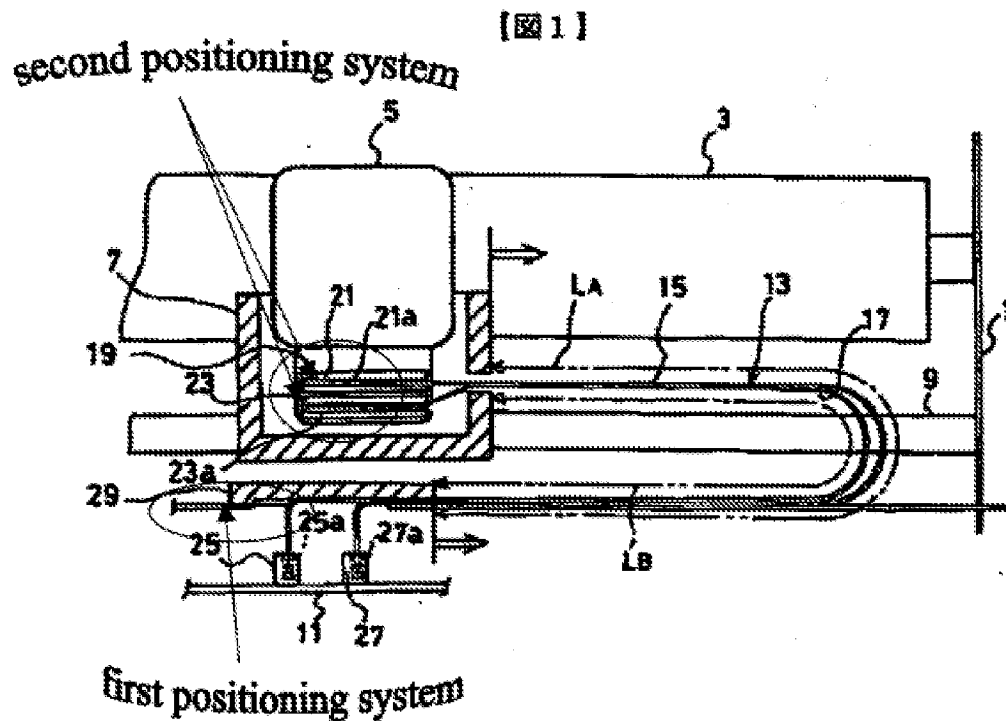
If the Examiner's burden is met, the burden then shifts to the Appellant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

### ANALYSIS

We find the Examiner has not provided us with enough evidence to sustain the rejection. The Examiner has relied on Urushibata and pointed

out the endpoints of the cables to show first and second positioning systems, as shown below, without any further explanation as to what parts constitute the first and the second positioning systems.

An Examiner's mark up of Figure 1 of Urushibata is shown below.



The Examiner's mark up of Figure 1 of Urushibata shows Figure 1 with added ellipses, arrows, and text reading "second positioning system" and "first positioning system. However, neither the Figure nor the description in Urushibata provides us with any indication of what the unnumbered structure would be. Indeed, although there appear to be positioning systems (connectors 21 and 23, for example), the Examiner has not provided us with an explanation as to what the indicated portion of the Urushibata Figure 1 represent, what the modification to Urushibata would



be, or how such a modification would be made so as to teach Appellant's claimed invention. Thus, making this determination would require speculation on our part and we decline to engage in speculation. Accordingly, we find the Examiner has not shown Urushibata teaches "a first positioning system added near the first end in the curved portion; and a second positioning system added near the second end in the curved portion" as recited in independent claims 1 and 19.

### CONCLUSION

The Examiner has not shown claims 1 and 19 are obvious over Urushibata. Since claims 2-6 depend from representative and independent claim 1 and claim 20 depends from independent claim 19, claims 2-6 and 20 have not been shown to be obvious over Urushibata. Accordingly, Appellant has shown the Examiner erred in rejecting claims 1-6, 19 and 20 under 35 U.S.C. § 103(a) for obviousness over Urushibata.

### DECISION

The Examiner's rejection of claims 1-6, 19 and 20 under 35 U.S.C. § 103(a) as being obvious over Urushibata is rejected.

### REVERSED

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